UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JOSE LUIS GUTIERREZ,	Case No. 20-CV-398 (NEB/DTS)
Petitioner,	
v.	ORDER ON REPORT AND RECOMMENDATION
JODI HARPSTEAD, DHS Commissioner,	
Respondent.	

Jose Luis Gutierrez was civilly committed as a sexually dangerous person and a sexual psychopathic personality. *Matter of Civ. Commitment of Gutierrez*, No. A18-1290, 2018 WL 6729833 (Minn. Ct. App. Dec. 24, 2018), *rev. denied* (Minn. Feb. 19, 2019). Gutierrez petitioned this Court for a writ of habeas corpus under 28 U.S.C. Section 2254, challenging his commitment proceedings and arguing that the state courts were biased and unfairly prejudicial and that he was denied effective counsel during the proceedings. (ECF No. 1 at 3–4.) Respondent moved to dismiss the petition for failure to exhaust state remedies. (ECF Nos. 40–41.) In a Report and Recommendation, United States Magistrate Judge David T. Schultz recommends granting Respondent's motion and denying Gutierrez's petition with prejudice. (ECF No. 44 ("R&R").)

Because Gutierrez objects to the R&R, (ECF No. 45), the Court reviews the R&R *de novo*. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). Gutierrez proceeds *pro se*, so the Court construes his objections liberally. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

The Court has undertaken a *de novo* review and concludes that the analysis and conclusions in the R&R are correct. Therefore, based on all the files, records, and proceedings in this case, IT IS HEREBY ORDERED THAT:

1.   Gutierrez's Objection (ECF No. 45) is OVERRULED;

2.   The Report and Recommendation (ECF No. 44) is ACCEPTED;

3.   The Renewed Motion to Dismiss (ECF No. 40) is GRANTED;

4.   The Petition for Writ of Habeas Corpus (ECF No. 1) is DENIED;

5.   The action is DISMISSED WITH PREJUDICE; and

6.   No certificate of appealability be issued.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 20, 2024   BY THE COURT:

                                            s/Nancy E. Brasel
                                            Nancy E. Brasel
                                            United States District Judge